

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 09-1560

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Neldon Neal,

Appellant,

v.

Jeremiah Nixon; Brenda Umstatt;  
Paul Harper,

Appellees.

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Appeal from the United States  
District Court for the  
Western District of Missouri.

[UNPUBLISHED]

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Submitted: January 22, 2010  
Filed: February 2, 2010

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Before BYE, RILEY, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Missouri inmate Neldon Neal appeals the district court's<sup>1</sup> denial of his Fed. R. Civ. P. 60(b) motion for relief from judgment in his 42 U.S.C. § 1983 action. Notwithstanding Neal's argument that he failed to litigate his case because he did not receive court documents during a nine-month stay in federal custody, we find no abuse of discretion in the court's denial of his Rule 60(b) motion because nothing in the record shows that Neal notified the court of his custody change or otherwise

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<sup>1</sup>The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri.

attempted to follow through with his case before he was returned to state custody. See Murphy v. Mo. Dep't of Corr., 506 F.3d 1111, 1117 (8th Cir. 2007) (Rule 60(b)(6) relief is available only where exceptional circumstances have denied moving party full and fair opportunity to litigate claim and prevented moving party from receiving adequate redress); In re Guidant Corp. Implantable Defibrillators Prod. Liab. Litig., 496 F.3d 863, 866 (8th Cir. 2007) (setting forth relevant factors for finding excusable neglect under Rule 60(b)); see also Broadway v. Norris, 193 F.3d 987, 988-89 (8th Cir. 1999) (applying abuse-of-discretion review standard and noting that appeal of Rule 60(b) motion does not bring up for review underlying judgment or order).

Accordingly, we affirm. See 8th Cir. R. 47B.

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